

JUDICARE POLICY MANUAL

Previous Revision 7/05

Revision 12/05

I. Introduction

This manual reflects the policy of Legal Services of Eastern Missouri, Inc. (hereinafter LSEM) with respect to the overall management of the JUDICARE Component of LSEM. The manual may be supplemented from time to time. Notice of changes of policy will be given by First Class Mail as soon as is practical. Every effort will be made to make any notice of change immediate.

II. Funding

Funding for JUDICARE will be budgeted annually through funds received from the basic field grant from Legal Services Corporation in an amount which at a minimum meets the requirements of 45 C.F.R. §1614. This Policy will not set specific amounts of JUDICARE to be allocated to any county or geographic region of the service area. Rather, the Executive Director shall allocate JUDICARE in a manner consistent with providing equal access to legal assistance to all counties of the service area based upon a percentage of eligible client population per county. Excess funds from one county may be used for shortages in another county within the service area. However, grants from United Way or other charitable organizations will be restricted to the service area of those organizations if requested.

III. Types of Cases

The JUDICARE component shall handle all types of cases that the staff component is authorized to handle pursuant to the Case Acceptance Priority Policy and Guidelines. JUDICARE will be utilized whenever it is determined that such representation is in the best interest of the client and in the better interest of program management.

IV. Eligibility for JUDICARE Participation

Any attorney may participate in the JUDICARE Program subject to the following conditions.

- A. The attorney is licensed to practice law in the state of Missouri, or in rare instances, in the state where the services are rendered.
- B. The attorney shall sign an Attorney Provider Agreement and agree to comply with these policies and the Legal Services Act and Regulations.
- C. The attorney maintains professional liability insurance or self-insurance in an amount no less than \$100,000.00.
- D. The attorney shall provide representation in a manner consistent with the Code of Professional Responsibility and in a manner consistent with services provided to private pay clients.

- E. Each Judicare attorney shall maintain on file with LSEM a fully executed I.R.S. W-9 Form including a current name, address, and taxpayer identification number for purposes of reporting JUDICARE payments to the Internal Revenue Service.

V. Compensation of JUDICARE Attorneys

- A. For each JUDICARE referral, LSEM shall compensate the participating attorney in accordance with the manner of compensation (as set forth below) elected by the JUDICARE attorney at the time she/he accepts the assigned case. Methods of compensation are as follows:

1. JUDICARE. Attorneys electing JUDICARE are compensated at an hourly rate of fifty (\$50.00) dollars per hour (excluding Pro Bono hours 21 through 25) pursuant to the submission of an itemized statement setting forth services in increments of tenths (.10) of an hour including the date and description of the activity. Approved additional hours (hours 25 through 50) are similarly compensated.

A JUDICARE payment may be paid in excess of the initial twenty (20) hour JUDICARE allotment upon prior written authorization of the Hannibal Office Managing Attorney. Requests for additional hours shall be in writing and submitted when fifteen (15) hours have been expended utilizing the Additional Hours Authorization Form. Additional authorization shall be granted in such cases where the case cannot reasonably be completed within the initial twenty (20) hour allotment. Additional allotments shall be granted in no more than ten to fifteen (10 - 15) hour increments strictly upon the basis of the JUDICARE DEDUCTIBLE schedule below. Cases requiring more than fifty (50) hours must have prior written approval of the Executive Director or his designee. The written request for hours exceeding 50 must be submitted by the JUDICARE attorney and detail extraordinary circumstances which were not apparent or evident at the time the client was accepted for Legal Services assistance and referral.

(Revised 7/05)

2. JUDICARE DEDUCTIBLE. Under JUDICARE deductible the JUDICARE Attorney shall represent the client by providing the client five (5) hours of service Pro Bono according to the following schedule:

- ◇ Hours 1 - 20 @ \$50.00/hr.
- ◇ Hours 21 - 25 . . . Pro Bono
- ◇ Hours 26 - 50 . . . @ \$50.00/hr. with prior written approval
- ◇ All Hours of Service over 50 . . . Pro Bono unless prior written approval of the Executive Director or his designee has been obtained.

(Revised Wording 7/05)

3. PRO BONO. A JUDICARE attorney electing to represent a referral applicant on a Pro Bono basis is not compensated for his/her legal services but shall be able to recover JUDICARE expenses in accordance with these policies. Upon

request LSEM shall provide the JUDICARE attorney a written statement of Pro Bono hours at the close of each year if requested. Pro Bono files shall be administered in the same manner as any compensated file referred through JUDICARE. The JUDICARE attorney shall submit separate time and expense records on each Pro Bono case. Records shall be kept in tenths of an hour including the date, and a description of the activity.

(Revised 7/05)

B. The JUDICARE attorney requesting compensation beyond twenty five (25) hours shall include:

1. a partial billing for all incurred time and expenses through the date of the request; and
2. a current address for the client.

The Hannibal Office Managing Attorney shall decide the request for additional hours as soon as possible after receipt of the ~~additional hours request~~.

(Revised Wording 12/05)

C. LSEM shall reimburse up to \$50.00 in expenses incurred on any case. Reimbursable expenses shall be limited to:

1. Actual Postage Used
2. Mileage of ~~\$.445~~ Per Mile
3. Copies at \$.20 Per Copy or Actual Expenditure With Receipt
4. Actual Cost of Telephone Charges

Expenses in excess of fifty dollars may be authorized in advance by and at the discretion of the Executive Director or his designee.

(Revision Beginning 1/06)

VI. Other Expenses

The client shall assume all other costs of litigation. The JUDICARE attorney shall be provided an LSEM Certification of Inability to Pay Costs, Fees and Expenses pursuant to Section 514.040.3 of the Revised Statutes of Missouri under which costs, fees, and expenses are, by law, waived or taxable to the County in which the litigation occurs.

In addition, litigation expenses for depositions, expert witnesses, etc., are extraordinary expenses which may be advanced only upon prior written approval of the Executive Director or his designee - provided the client signs an acknowledgment of obligation for repayment of such advance and is advised by the JUDICARE attorney of the obligation to repay LSEM.

(Revised 7/05)

VII. Assignment of Cases

Assignment of cases shall be on a rotating basis in the County where the client resides or the case is pending. However, the rotation need not be strictly adhered to in cases where the next JUDICARE attorney has a conflict of interest with the client or the client specifically requests a member of the JUDICARE Program. If no JUDICARE attorney is available in the

appropriate county, a referral shall be made to a member in an adjacent county on a rotating basis as set forth above.

VIII. Referral of Cases & Case Opening

LSEM's Hannibal Office Managing Attorney and staff shall provide initial screening of potential clients and make an initial determination of whether the client and the case meet the financial eligibility, residency requirement, and case acceptance priorities of the Program. Once it is determined that a case will be referred through JUDICARE the staff shall consult with the JUDICARE attorney to determine potential conflicts and to determine if the JUDICARE attorney is available to accept the case. Once it is established that a JUDICARE attorney will consider the case a written referral is sent to the client and the JUDICARE attorney, as follows:

A. The LSEM staff shall send the client:

1. an engagement letter with the name, address and telephone number of the JUDICARE attorney and the obligation of the applicant to contact the JUDICARE attorney within five business days of the postmark date of the letter or the file will be closed;
2. a copy of the Retainer Agreement; and
3. a copy of a Statement of Facts if the client is the Petitioner.

B. The LSEM staff shall send the JUDICARE attorney:

1. a copy of the client engagement letter;
2. a copy of the completed client Questionnaire;
3. a copy of the completed Retainer Agreement;
4. a copy of the completed Statement of Facts if the client is the Petitioner;
5. any documents or exhibits available to the staff; and
6. all JUDICARE case management forms.

(Revised 7/05)

IX. Attorney Follow-Up Form

Within fifteen (15) business days of the date of the referral, the JUDICARE attorney should arrange an interview of the applicant/client and return the Attorney Follow-Up Form. The Attorney Follow-Up Form will be provided by the Program and shall contain the following information:

- A. JUDICARE attorney name;
- B. client name;
- C. date of interview/appointment;
- D. statement of whether the applicant made and kept the appointment and whether the case has been accepted by the JUDICARE attorney;
- E. election of compensation method under Section V. above;
- F. brief description of the anticipated services to be rendered by the JUDICARE attorney; and
- G. estimated of the date of completion.

X. If the Client Fails to Make/Keep Appointment

If the applicant fails to make or keep the initial appointment, the JUDICARE attorney shall so indicate and return the Attorney Follow-Up form within fifteen (15) business days from the date of the referral. The JUDICARE attorney shall indicate time utilized in processing the case and shall have the option of billing for actual time and expenses or donating such services. Upon receipt of the Attorney Follow-Up Form, a notice shall be mailed to the client that the file is being closed.

XI. If the Client Keeps the Appointment

- A. REVIEW OF RETAINER AND QUESTIONNAIRE. The JUDICARE attorney shall review with the client the Retainer Agreement and the Questionnaire provided by Program.
- B. IF THE CASE IS ACCEPTED. If the JUDICARE attorney agrees to accept the case, the JUDICARE attorney shall fully discuss with the client the nature of the services to be rendered and inform the client of any anticipated costs of litigation chargeable to the client. Within fifteen (15) business days of the referral the attorney shall return the Attorney Follow-Up Form indicating a description of services to be rendered as well as the estimated date of completion.
- C. IF THE CASE IS NOT ACCEPTED. If the JUDICARE attorney decides not to accept the case, the JUDICARE attorney shall so indicate on the Attorney Follow-Up Form and return same with a final billing within fifteen (15) business days of the date of the referral. The JUDICARE attorney shall also return to LSEM all documents as outlined in Section VIII B. 2., 3., 4., and 5. Upon receipt of the Attorney Follow-Up Form, the LSEM's Hannibal Office Managing Attorney or designee shall ascertain the reason for the non-acceptance and determine if the matter will be referred to another JUDICARE attorney or closed. If closure is appropriate, the client shall be sent a notice of the case closure to the last known address.
- D. FAILURE TO SEND THE ATTORNEY FOLLOW-UP FORM. The Hannibal Office Managing Attorney or staff designee shall review the file after fifteen (15) business days have elapsed. If the JUDICARE attorney has failed to return the Attorney Follow-Up Form, a letter shall be sent requesting same be returned to Program office. If after mailing of letter, the Hannibal Office does not receive the timely return of the Attorney Follow-Up Form, the JUDICARE attorney shall be sent a Case Update Form, after which the case may be closed under Section XII below.

(Revised 7/05)

XII. Case Management

REQUEST FOR CASE UPDATE. If the JUDICARE attorney does not provide monthly billing pursuant to the monthly billing requirement (see Section XIV), LSEM's Hannibal Office Managing Attorney or staff will send a Case Update form. This form shall be dated and

designate the name of the JUDICARE client and the case number. The Case Update form requires:

1. a statement of whether the JUDICARE attorney has completed the case with an explanation of case status or outcome;
2. a billing statement of unbilled time and expenses;
3. a statement of whether the JUDICARE attorney is requesting additional hours;
4. a statement of whether the JUDICARE attorney is requesting additional expenses; and
5. return within ten (10) business days from the date of the form.

LSEM's Hannibal Office Managing Attorney or staff shall review the file after ten (10) business days have elapsed since the mailing of the Case Update Form. If the JUDICARE attorney has not returned the Case Update Form, the Hannibal Office Managing Attorney or designee shall send a follow-up letter. Ultimately, upon a continuing failure to return the Case Update Form, a letter will be sent indicating that the matter will be administratively closed and reassigned when necessary.

Should the JUDICARE attorney realize *before* receiving a Case Update that case processing will be delayed due to an ancillary court proceeding (ie. Juvenile, guardianship, etc.), a temporary hold on a case such as pregnancy, a Court ordered investigation/Home Study, etc., then JUDICARE attorney shall send a letter of explanation as to the nature of the delay and its expected length. If the JUDICARE attorney has any unpaid billable time and/or expenses, a billing statement shall be attached to the letter of explanation.

(Revised 7/05)

XIII. Administrative Closure

The Hannibal Office Managing Attorney is empowered to administratively close any file upon written notification for reasons as specifically set forth in these policies. In general the guiding principle will be the best interest of the client.

Effect: One effect of administrative closure is to relieve LSEM of further liability of JUDICARE payments under these policies. Administrative closure does not necessarily relieve the JUDICARE attorney of any duty to representation under the Code of Professional Responsibility nor shall administrative closure be sole cause for the JUDICARE attorney to withdraw from any pending litigation on behalf of a JUDICARE client. If a case is reassigned, the JUDICARE attorney shall cooperate with the newly assigned JUDICARE attorney regarding all matters necessary to continue effective representation of the client.

XIV. Billing

The JUDICARE attorney shall bill the JUDICARE fund monthly. A 'Final Bill' marked as such shall be submitted within thirty (30) days of completion of services to the client. Failure to timely bill may result in non-payment due to Legal Services Corporation requirements. The billing shall be on a form of the JUDICARE attorneys' choosing and shall state:

- A. a brief description of the service with hours expressed in tenths of an hour;

- B. the date of the service;
- C. a statement of costs expended; and
- D. whether the billing is a partial or final billing. All final bills shall be marked "Final Bill" and include a copy of any final order, final judgment, or final decision or Court docket sheet stating of how the case was resolved.

For financial audit purposes the JUDICARE ATTORNEY SHALL provide a billing statement of all unpaid billable time and expenses in each case up to and including December 31 to be received at LSEM in Hannibal no later than JANUARY 31 of the following year. Failure to submit year end billing (all unbilled time and expenses) by January 31 of the following year will result in non-payment of unbilled previous year's time and expenses.

(Revised 12/05)

XV. Payment

Upon receipt of the billing, the Hannibal Office Managing Attorney or designee shall review the statement and approve all payments that are in compliance with these policies. It is understood that payment shall be made as promptly as possible. In the event that available cash flow is insufficient to meet the entire accumulated JUDICARE billings for a given month, preference shall be given to final billings. Partial billings may be paid at the discretion of the Executive Director or his designee.

XVI. Disallowed Charges

In the event the Executive Director or his designee disallows all or any portion of a JUDICARE billing, the Executive Director or designee shall notify the JUDICARE attorney of the disallowance in writing. In the event of a partial disallowance, the notice shall also include payment for the approved portion of the billing. The JUDICARE attorney has the right to grieve any disallowance of payment in writing to the Executive Director or his designee.

XVII. Executive Director to Promulgate Internal Policy Forms

The Executive Director is authorized to promulgate internal policies for the administration of JUDICARE not inconsistent with these policies. This authority shall specifically include, but not be limited to a policy for the encumbrance of funds for JUDICARE.

XIII. Appendix – Forms Attached